



Billing Code 4210-67

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5602-N-04]

Notice of Proposed Information Collection: Comment Request

**Legal Instructions Concerning Applications
for Full Insurance Benefits – Assignment of Multifamily Mortgages to the Secretary**

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: **[Insert date 60 days after date of publication in the FEDERAL REGISTER.]**

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Nacheshia Foxx, Reports Liaison Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10276, Washington, DC 20410-0500.

FOR FURTHER INFORMATION CONTACT: Millicent Potts, Assistant General Counsel for Multifamily Mortgage Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 9230, Washington, DC 20410-0500, telephone (202) 708-1274 (this is not a toll-free number) for a copy of the instructions.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Legal Instructions Concerning Applications for Full Insurance Benefits – Assignment of Multifamily Mortgage to the Secretary.

OMB Control Number, if applicable: 2510-0006.

Description of the need for the information and proposed use: Mortgagees of HUD-insured mortgages may receive mortgage insurance benefits upon assignment of mortgages to HUD. In connection with the assignment, legal documents (e.g., mortgage, mortgage note, security agreement, title insurance policy) must be submitted to the Department. The instructions describe the documents to be submitted and the procedures for submission.

HUD has made the following revisions to the Legal Instructions Concerning Applications for Full Insurance Benefits – Assignment of Multifamily Mortgage to the Secretary (the “Legal Instructions”):

Part A, item 1 – removed the reference to “the model form of assignment” and replaced it with “the requisite language below” since there is not a model form of assignment.

Part B, first paragraph – revised second sentence to add “or debentures” to indicate that one 15-day extension of the deadline for claims is applicable for claims paid in cash or debentures.

Part B, item 1 – “(insert the unpaid balance as of the date of assignment)” has been changed to “[insert the unpaid balance as of the date of assignment]” as this language is instructive and should not appear within the actual endorsement on the Note. Also, “note” was changed to “Note” within the requisite language, since the references are to the promissory Note.

Part B, item 2 – removed “, certified by the recording official” as this language was redundant. Also, revised the requisite Indemnification Agreement language for consistency with the form of Indemnification Agreement in Part B, item 1, to read as follows:

[Insert name of the mortgagee] agrees to indemnify and hold harmless the Secretary of Housing and Urban Development and his/her successors and assigns against any loss, costs, or charges whatsoever, including attorney’s fees, which may be sustained by the Secretary as a result of the failure of the mortgagee to furnish an original copy of [insert description of document].”

Part B, item 4 – removed “, if recorded” at the end of the first sentence, as this language was redundant.

Part B, item 5 – revised the first sentence to read as follows, for clarity: “The original security agreement/chattel mortgage, or a certified copy. All certifications must be made by the recording official.” Also revised the second sentence to remove the sample Indemnification Agreement provision and cross-reference instead to Part B, item 2.

Part B, item 7 – revised the first sentence to read as follows, for clarity: “Original interim assignments of the [Security Agreement][Chattel Mortgage], or certified copies. All certifications must be made by the recording official.” Also, in the next sentence, changed “are unrecorded” to “were not recorded”, and referred to the form of Indemnification Agreement in Part B, item 2.

Part B, item 8 – changed references to the “Uniform Commercial Code” to “UCC” since the term was defined in Part A, item 2. Also changed “ATIMA” to “as their interests may appear” for clarity. Under “Lapsed UCC filings”, removed “as applicable” at the end of the first paragraph. Under “UCC filing was never filed”, the following sentence was added at the end of the first paragraph: “The mortgagee must also submit an Indemnification Agreement that contains the following language and is otherwise acceptable to HUD:”.

Part B, item 8 – under “Lapsed UCC filings ...” and “UCC filing was never filed” – revised the paragraphs regarding Indemnification Agreements to include the requisite language, so that the Legal Instructions would be formatted like Part B, items 1 and 2.

Part B, item 9 – changed “the Departmental regulations” to “HUD regulations” for clarity.

Part B, item 10 has been revised to indicate that the evidence of property insurance is acceptable if accompanied by an affidavit from the mortgagee that the hazard insurance policy is in full force and effect as of the date of assignment to the Secretary, since mortgagees are no longer able to obtain an ACORD that does not state it is for informational purposes only and does not confer rights upon the holder of the policy. Requisite language for the mortgagee’s affidavit has been added.

Part B, item 12 – “project loan” was changed to “Note” for accuracy, since the endorsement is on the Note.

Part B, item 13 has been added to require submission of additional documents for loans insured under Section 232 of the National Housing Act and processed under LEAN, including, but not limited to, an assignment of the Master Lease and all corollary Subordination and Non-Disturbance Agreements, the Deposit Account Control Agreement and any Notice of Exclusive Control that has been delivered to the Bank (as defined in the Deposit Account Control Agreement), and the Intercreditor Agreement and all riders thereto.

Part B, former items 13, 14 and 15 have been re-numbered to items 14, 15, and 16, respectively.

Part B, re-numbered item 15 has been revised in the first full paragraph after the NOTE, to indicate that if title insurance issues cannot be resolved within the deadline “(including extensions)”, interest will be curtailed “or the mortgage may be reassigned to the mortgagee, thereby requiring the mortgagee to reimburse the Secretary the amounts paid plus interest.”

Part B, re-numbered item 16 has been revised to change “HUD” to “the Secretary” for consistency.

Part B, final NOTE at end, has been revised to add that HUD reserves the right “in its sole discretion” to refuse to accept an Indemnification Agreement.

The revised Legal Instructions, which reflects new language added in bold, and language removed in strikeout is attached as Appendix A.

Agency form numbers, if applicable: N/A

Members of affected public: Mortgagees when applying for insurance benefits from HUD.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of respondents	Burden hours	Frequency of response	Total burden Hours
359	26	1	9,334

Status of the proposed information collection: Extension of a currently approved collection.

AUTHORITY: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 9, 2012

Aaron Santa Anna
Assistant General Counsel for Regulations

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